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Internal Revenue Service

Department of the Treasury
Washington, DC 20224

860D.00-00, 9100.00-00

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact: _____, ID No. _____

Telephone Number:

Refer Reply To:
CC:FIP:B03
PLR-107077-06

Date:
June 07, 2006

Legend:

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Taxpayer =

Seller =

Master Servicer =

Depositor =

Trustee =

Firm 1 =

Firm 2 =

Dear Mr. _____ :

This private letter ruling responds to a letter dated January 31, 2006, requesting an extension of time under § 301.9100-1 of the Procedure and Administration Regulations to make an election under section 860D of the Internal Revenue Code ("the Code") to be treated as a Real Estate Mortgage Investment Conduit (REMIC).

FACTS:

Taxpayer was established on Date 1, by agreement between Seller, Master Servicer, Depositor, and Trustee. Taxpayer was established to facilitate the securitization of REMIC regular interests created upon the conveyance of certain mortgage loans to the Depositor from the Seller. The transaction is evidenced by a Prospectus Supplement and a Pooling and Servicing Agreement stating the intention of Taxpayer to make four REMIC elections: REMIC 1, REMIC 2, REMIC 3, and the Master REMIC.

Trustee was responsible for completing Forms SS-4 and 8811 for each REMIC and forwarding them to Firm 1, which was responsible for completing the REMIC elections and tax returns. On Date 2, Trustee mailed a draft Pooling and Servicing Agreement reflecting three REMICs with Forms SS-4 and 8811 for REMIC 1, REMIC 2, and the Master REMIC to Firm 1. On Date 3, Trustee mailed a final Pooling and Servicing Agreement reflecting four REMICs to Firm 1. Firm 1 did not realize that the Pooling and Servicing Agreement provided on Date 3 reflected a change in the number of REMICs from three to four and failed to prepare Form 8736 for REMIC 3. On Date 4, Firm 2 discovered the failure to make an election for REMIC 3 and notified Trustee and Firm 1. Firm 2 subsequently submitted a request for a private letter ruling requesting relief under § 301.9100-1 for an extension of time for Taxpayer to elect to be treated as a REMIC under § 860D of the Code.

Taxpayer makes the following additional representations:

1. The request for relief was filed by Taxpayer before the failure to make the regulatory election was discovered by the Service.
2. Granting the relief requested will not result in Taxpayer having a lower tax liability in the aggregate for all years to which the regulatory election applies than that Taxpayer would have had if the election had been timely made (taking into account the time value of money).
3. Taxpayer did not seek to alter a return position for which an accuracy-related penalty has been or could have been imposed under section 6662 of the Code at the time the Taxpayer requested relief and the new position requires or permits a regulatory election for which relief is requested.
4. Being fully informed of the required regulatory election and related tax consequences, Taxpayer did not choose to not file the election.

LAW AND ANALYSIS:

Section 860D(b)(1) of the Code provides that an entity which meets the requirements of a REMIC under § 860D(a) may elect to be treated as a REMIC for its first taxable year and that such election must be made on the return for its first taxable year. Section 1.860D-1(d)(1) provides that a qualified entity makes a REMIC election by timely filing, for its first taxable year, a Form 1066 signed by a person authorized to sign that return. This regulation also provides a reference to § 301.9100-1 for rules regarding extensions of time for making elections.

Section 1.860F-4(b)(1) of the regulations provides that the due date and any extensions for filing a REMIC's annual tax return are determined as if the REMIC were a partnership. Therefore, pursuant to section 1.6031-1(e)(2), a REMIC's annual return must be filed on or before the fifteenth day of the fourth month following the close of the taxable year, unless an extension is granted. Section 301.9100-1(c) of the regulations provides, in part, that the Commissioner has discretion to grant a reasonable extension of time to make a regulatory election (defined in section 301.9100-1(b) as an election whose due date is prescribed by regulations or by a revenue ruling, a revenue procedure, a notice, or an announcement published in the Internal Revenue Bulletin), or a statutory election (but no more than 6 months except in the case of a taxpayer who is abroad), under all subtitles of the Code except E, G, H, and I.

Sections 301.9100-3(a) through (c)(1)(i) of the regulations set forth rules that the Internal Revenue Service generally will use to determine whether, under the particular facts and circumstances of each situation, the Commissioner will grant an extension of time for regulatory elections that do not meet the requirements of section 301.9100-2. Section 301.9100-3(b) provides that subject to paragraphs (b)(3)(i) through (iii) of section 301.9100-3, when a taxpayer applies for relief under this section before the failure to make the regulatory election is discovered by the Service, the taxpayer will be deemed to have acted reasonably and in good faith; and section 301.9100-3(c) provides that the interests of the government are prejudiced if granting relief would result in the taxpayer having a lower tax liability in the aggregate for all years to which the regulatory election applies than the taxpayer would have had if the election had been timely made (taking into account the time value of money).

CONCLUSION:

Based on the information submitted and representations made, we conclude that Taxpayer has satisfied the requirements for granting a reasonable extension of time to elect REMIC status. Therefore, Taxpayer is granted a reasonable extension of time, not to exceed 30 days from the date of this letter, to elect REMIC status for purposes of section 860D(b) and section 1.860D-1(d)(1).

This ruling is limited to the timeliness of the REMIC election of Taxpayer. This ruling does not relieve Taxpayer from any penalty that they may owe as a result of the failure

to timely file Form 1066. This ruling's application is limited to the facts, representations, Code sections, and regulations cited herein. No opinion is expressed with regard to whether Taxpayer meets the requirements of a REMIC under section 860D(a).

No opinion is expressed with regard to whether Taxpayer's tax liability is not lower in the aggregate for all years to which the election applies than such tax liability would have been if the election had been timely made (taking into account the time value of money). Upon audit of the federal income tax returns involved, the director's office will determine such tax liability for the years involved. If the director's office determines that such tax liability is lower, that office will determine the federal income tax effect. Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. This ruling is directed only to Taxpayer that requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the provisions of a Power of Attorney currently on file, we are sending a copy of this ruling letter to your authorized representative.

Sincerely yours,

Alice M. Bennett
Chief, Branch 3
Office of Associate Chief Counsel
(Financial Institutions and Products)